



## PUBLIC CHARGE RULE Issue Brief

# The Public Charge Rule and Public Health

## Introduction

In 2019, the U.S. Department of Homeland Security (DHS) finalized its final public charge rule (the “Final Rule”) altering the definition of “public charge” as used in the Immigration and Nationality Act (INA). Under the INA, a person seeking to adjust her or his status, such as applying for a green card, is inadmissible if deemed “likely at any time to become a public charge” at the time of the application for adjustment of status.<sup>1</sup> The Final Rule went into effect on February 24, 2020.<sup>2</sup>

In determining whether an individual is likely to become a public charge, the Final Rule considers the individual’s likely future use of certain public benefits. Among other changes, the Final Rule expands the list of public benefits considered in the public charge determination by including non-cash benefits relating to food and nutrition, health, and housing. As such, the Final Rule raises a variety of concerns that implicate public health. The most pronounced example is the chilling effect on the use of public benefits by individuals, such as U.S. citizens and current legal permanent residents (LPRs), who are otherwise eligible for benefits and not subject to the public charge determination.

This issue brief explains the Final Rule and how it altered the public charge analysis. It also addresses some common myths about the scope and applicability of the Final Rule and highlights public health concerns in the context of the chilling effect on the use of non-cash benefits.

## The Public Charge Ground of Inadmissibility

As noted above, under the INA a person deemed to be likely to become a public charge will be denied a green card, meaning the person cannot obtain legal status to reside and work in the U.S. as a non-citizen LPR. The INA states that “[a]ny alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.”<sup>3</sup> The Final Rule applies to persons who can adjust their status while in the U.S., like green card applicants.<sup>4</sup> A typical example might be a non-citizen in the U.S. on a student visa, who applies for a green card as the immediate relative (*i.e.*, the spouse) of a U.S. citizen.<sup>5</sup> Many



green card applicants apply using family-based immigration pathways, although the Final Rule is not limited to family-based immigration.<sup>6</sup> Nonetheless, given the predominance of family-based immigration in the U.S., a public charge finding can have a big impact on an applicant’s family unit as a whole, which often includes family members of mixed status (*i.e.*, U.S. citizens, current LPRs, undocumented persons, and refugees). This is because it may mean that one’s spouse, child, or parent cannot legally work or reside in the U.S.

## What Did the Final Rule Change?

### A. Redefining “Public Charge”

The INA does not define the term “public charge.” Instead, it requires an immigration officer to make a public charge determination using a totality of the circumstances test. An immigration officer must consider an applicant’s: (1) age; (2) health; (3) family status; (4) assets, resources, and financial status; and (5) education and skills.<sup>7</sup> The INA also states that an immigration officer may consider an affidavit of support from the applicant’s sponsor, which is generally required for family-based immigration.<sup>8</sup>

The definition of “public charge” previously used in the public charge ground of inadmissibility was adopted from federal guidance provided in the 1999 Field Guidance on Deportability and Admissibility on Public Charge Grounds (Field Guidance).<sup>9</sup> The table below illustrates the two different definitions.

| 1999 Field Guidance (Operative 1999-February 24, 2020) <sup>10</sup>   | DHS’s Final Rule (effective February 24, 2020)  |
|--|---|
| A public charge is an individual who is likely to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense. <sup>11</sup> | A public charge is an individual who receives one or more designated public benefits for more than 12 months in the aggregate within any 36-month period (such that, receiving two benefits in one month counts as two months). <sup>12</sup> |

### B. Expanding the “Public Benefit Analysis”

One key difference between the Final Rule and the 1999 definition is that the Final Rule expands the list of “public benefits” that an immigration officer will consider when determining if a person seeking a green card is “likely at any time” to become a public charge. The Final Rule broadly defines “designated public benefits” to include non-cash benefits relating to food and nutrition, healthcare, and housing.<sup>13</sup>

Most non-cash benefits were excluded from the prior public charge definition due to concerns that it would deter benefit use, impacting the individuals foregoing public benefits, like healthcare as well as public health.<sup>14</sup> The Field Guidance recognized the importance of food and nutrition, healthcare, and housing benefits to the public’s well-being.<sup>15</sup> The decision to largely exclude non-cash benefits from the 1999 definition rested on three primary considerations: (1) the adverse impact resulting from eligible individuals not using public benefits on both the eligible individuals and public health; (2) the view that non-cash benefits are largely supplemental in nature and not indicative of dependence; and (3) the recognition of numerous public policy decisions that made benefits more accessible in order to promote public health and nutrition, and to help the working poor achieve

self-sufficiency.<sup>16</sup> In contrast, the Final Rule takes an expansive view of the use of non-cash benefits, regarding likely future need of non-cash benefits, even temporarily, as indicative of an individual’s inability to be “self-sufficient.”<sup>17</sup>

The table below illustrates the designated “public benefits” under the 1999 definition versus the Final Rule.

| Public Benefits: 1999 Field Guidance  | Public Benefits: <sup>18</sup> The Final Rule  |
|---|--|
| <ul style="list-style-type: none"> <li>▪ SSI (Supplemental Security Income)</li> <li>▪ TANF (Temporary Assistance for Needy Families)</li> <li>▪ Federal, state, or local cash benefit programs for income maintenance<sup>19</sup></li> <li>▪ Institutionalization for long-term care at government expense (nursing home, mental health institution)</li> </ul> | <ul style="list-style-type: none"> <li>▪ SSI</li> <li>▪ TANF</li> <li>▪ Federal, state, or local cash benefit programs for income maintenance</li> <li>▪ Institutionalization for long-term care at government expense</li> <li>▪ <b>SNAP (Supplemental Nutrition Assistance Program)</b></li> <li>▪ <b>Medicaid* (most—but not all—forms)</b></li> <li>▪ <b>Section 8 Housing subsidies<sup>20</sup></b></li> </ul> |
| <p><b>*Medicaid Use and Services Exclude from the Final Rule:</b> emergency medical, Medicaid used by children under 21, Medicaid used by pregnant women including 60 days after pregnancy, certain school-based services or programs,<sup>21</sup> and services or benefits provided under the Individuals With Disabilities Education Act.<sup>22</sup></p>     |  |

The Final Rule also directs an immigration officer to aggregate any likely future use of designated public benefits. As an example, a green card applicant deemed likely to need SNAP, TANF, and Medicaid in the short term (five concurrent months each) over a three-year period, will be viewed as meeting the Final Rule’s 12-month threshold.

### C. Positive and Negative Factors

The Final Rule adds a list of “positive” and “negative” factors to be weighed with each of the INA’s statutory factors.<sup>23</sup> It also adds a list of heavily weighted positive and negative factors.<sup>24</sup> No single factor is determinative. An immigration officer must apply the totality of the circumstances test.

| <i>Examples of Positive Factors</i>   | <i>Examples of Negative Factors</i>  |
|---|--|
| <ul style="list-style-type: none"> <li>▪ Age (between 18-61)</li> <li>▪ Family Status (small household)</li> <li>▪ Assets, resources, and financial status (ability to cover reasonably foreseeable medical costs)</li> </ul> | <ul style="list-style-type: none"> <li>▪ Age (younger than 18, older than 61)</li> <li>▪ Family status (large household)</li> <li>▪ Assets, resources, and financial status (financial liabilities)</li> </ul> |



|   |  |
|---|--|
| <ul style="list-style-type: none"> <li>Education and skills (English proficient, primary caregiver, household gross income is at least 125% of the Federal Poverty Guidelines (FPG))</li> </ul> | <ul style="list-style-type: none"> <li>Education and skills (no high school /higher education degree or their equivalent)</li> </ul> |
|---|--|

| Heavily Weighted Positive Factors  | Heavily Weighted Negative Factors  |
|--|--|
| <ul style="list-style-type: none"> <li><b>At least 250% of the FPG</b> (in household income, assets, or resources)</li> <li><b>At least 250% of FPG</b> (in annual income from employment)</li> <li><b>Private health insurance</b> (excluding insurance obtained with ACA tax subsidies)</li> </ul> | <ul style="list-style-type: none"> <li><b>Unemployed (not a student)</b> Authorized to work but lacking a job, work history, or reasonable prospect of employment</li> <li><b>Approval or Receipt of Public Benefits</b> for 12 months in the aggregate within any 36-month period (within three years prior to application for adjustment of status)<sup>25</sup></li> <li><b>Medical condition:</b> (1) likely requiring extensive treatment, institutionalization, or interferes with the applicant’s ability to provide for herself, attend school, or work; and (2) no insurance and inability to obtain private health or resources to pay for reasonably foreseeable medical costs</li> <li><b>Previous Public Charge finding</b> (inadmissibility or deportability grounds)</li> </ul> |


Because the Final Rule’s addition of positive and negative factors is new, it is unclear how they will be implemented. The Migration Policy Institute, however, recently did an assessment of how five of the negative factors would have impacted individuals who recently obtained LPR status, if the Final Rule had been in place.<sup>26</sup> Its findings indicated that children, the elderly, and women disproportionately had at least two to three negative factors, based on factors like age, lack of employment, and higher rates of poverty.<sup>27</sup>

### D. Addressing Common Myths

When DHS introduced its proposed public charge rule in 2018 it generated a lot of confusion about the scope and applicability of the Final Rule. Below are common myths that appear to be contributing to the chilling effect on the use of non-cash benefits.

**Myth:** The Final Rule impacts green card applicants by incentivizing them to stop using non-cash benefits.

**Fact: Most green card applicants who are subject to the Final Rule are ineligible for federal non-cash benefits.** The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) limits legal immigrants’ eligibility for federal benefits.<sup>28</sup> Under PRWORA “Qualified aliens” such as LPRs,<sup>29</sup> refugees, and asylees are eligible to use non-cash benefits, but they are also exempt from the public charge ground of inadmissibility. As discussed, however, there has been a chilling effect on the use of non-cash benefits by individuals in this group. In contrast, “Non-qualified” aliens (*i.e.*, undocumented persons, non-immigrants on temporary visas) are generally ineligible for federal benefits and could potentially be subject to the public charge rule. To illustrate, in general, a person on a student visa who applied for a green card as the spouse of a U.S. will not already have access to Medicaid.<sup>30</sup> The public charge



determination applies a *forward-looking test*, which looks at likely future use of non-cash benefits. Green card applicants subject to the public charge ground of inadmissibility are generally ineligible for the non-cash benefits identified in the Final Rule.

**Myth:** The Final Rule applies to all non-cash benefits.

**Fact: The Final Rule applies to the non-cash benefits identified in the Final Rule, which also specifically excludes a variety of non-cash benefits including:** The Children’s Health Insurance Program (CHIP); Supplemental Nutrition Program for Women, Infants, and Children (WIC); school related nutrition programs; national school lunch or breakfast programs; low-cost vaccines provided by local health centers and state departments. Marketplace private health insurance coverage under the Affordable Care Act is also not a “public benefit” under the Final Rule.

**Myth:** The Final Rule applies to all green card applicants.

**Fact: The Final Rule does not apply to a variety of individuals who might apply for a green card, including:** Refugees; Asylees; T-Visa holders or applicants (certain trafficking victims); U-Visa holders or applicants (certain crime victims); VAWA self-petitioners (family abuse); Special Immigrant Juveniles (certain juveniles who experienced parental abuse or neglect). These are just some key examples.<sup>31</sup>

**Myth:** The Final Rule applies to U.S. Citizens, current LPRs, and a green card applicant’s family.

**Fact: The Final Rule does not apply to U.S. Citizens and only applies to current LPRs in very narrow circumstances.**<sup>32</sup> It also does not apply to an applicant’s family members unless they are also applying for admission or an adjustment of status and are not otherwise exempt from the Final Rule.

**Myth:** The Final Rule applies to all applications for admissions or adjustment of status.


**Fact: The Final Rule applies to applications for admissions or adjustment of status postmarked or electronically submitted on or after February 24, 2020.** The Field Guidance definition of public charge applies to pending applications postmarked or electronically submitted before February 24, 2020.

## The “Chilling Effect” of the Final Rule and Public Health

The chilling effect refers to the decision by otherwise eligible individuals to forego the use of non-cash benefits after DHS introduced its proposed public charge rule in 2018.<sup>33</sup> Individuals choosing not to enroll in non-cash benefits like SNAP or Medicaid, or even disenroll, are overwhelmingly not subject to the public charge determination.<sup>34</sup> These individuals consist of: (1) U.S. citizens, (2) current LPRs, and (3) potential green card applicants who are eligible for non-cash benefits and exempt from the public charge analysis.<sup>35</sup>

The persons most impacted by the chilling effect reside in mixed status households, which may include a combination of U.S. citizens, LPRs, undocumented persons, or other legally present persons like asylees. According to one assessment, consisting of interviews conducted between November 2018 and September 2019 of benefit enrollers, health care professionals, and attorneys, primary reasons for the chilling effect in mixed-status households include concerns about how public benefit use would impact the individuals’ ability to sponsor a family member’s green card application, misinformation about what public benefits are part of the public charge analysis, and misinformation about who was subject to the Final Rule.<sup>36</sup>

Another major concern is the impact of the chilling effect on U.S. citizen children in low-income families, an already vulnerable population. One analysis of children’s health care found that health care coverage for



children in the U.S. started generally declining in 2017 and 2018.<sup>37</sup> Compared with children of native U.S. born parents, during that time, Medicaid coverage declined at significantly higher rates for U.S. children of immigrant parents.<sup>38</sup> A 2018 survey by the Urban Institute showed that one in seven adults in immigrant families avoided non-cash public benefits.<sup>39</sup> For immigrant families who are especially poor, with incomes below 200% of the federal poverty level, the number was one in five.<sup>40</sup> Benefit avoidance included the respondent's own use or their family member's, which would include eligible children.

Any chilling effect has the potential to significantly impact the health of a significant number of children. According to the Kaiser Family Foundation (KFF), 13.5 million individuals enrolled in Medicaid or CHIP, including 7.6 million children, live in a mixed-status household.<sup>41</sup> With respect to U.S. citizen children specifically, the KFF concluded that Medicaid and CHIP were essential to securing their health.<sup>42</sup> Combined Medicaid and CHIP provided health care coverage to 5.8 million U.S. citizen children in mixed status households that included a non-citizen parent in 2016.<sup>43</sup>

A study of service providers in 11 states (CA, CO, GA, KY, FL, MI, NC, OR, TN, TX, WI) by the National Immigration Law Center (NILC) provides a good example of how the chilling effect operates on multiple levels. A health care navigator recounted the experience of a mother with LPR status calling to terminate her children's Medicaid coverage as well as her own marketplace health care coverage, under the Affordable Care Act, despite being warned that doing so would be harmful to herself or her children if they became ill and needed care.<sup>44</sup> Neither the mother (a current LPR) or her children (U.S. citizens) are subject to the public charge rule. Further, the cancelled health insurance coverage (Medicaid by persons under 21 and marketplace coverage) are not "public benefits" under the Final Rule. In another example, a U-visa applicant (which refers to a victim of certain crimes who experienced substantial physical or mental abuse and assists in the investigation), who is exempt under the Final Rule, temporarily stopped getting cancer treatments covered by Medi-Cal after receiving legal advice that it might jeopardize her immigration status.<sup>45</sup> These are paradigm examples of the multiple levels of confusion generated by DHS's proposed and then final public charge rule.

Such trends are occurring within the U.S., which recently saw the rate and number of uninsured go up for the first time in ten years.<sup>46</sup> Non-cash benefits are essential to public health because they promote positive health outcomes in a variety of ways. Medicaid increases access to preventative care by providing access to wellness visits.<sup>47</sup> SNAP helps to decrease food insecurity, which is associated with a variety of health problems in children and adults, including asthma, diabetes, depression, and hypertension.<sup>48</sup> As such, reducing food insecurity can reduce common health problems that impact public health.<sup>49</sup>

Medicaid can also be important for reducing the spread of infectious diseases. In response to the COVID-19 outbreak, some U.S. Senators recently pointed out that the chilling effect can be particularly problematic in times of public health emergencies if individuals are reluctant or fearful of using health services.<sup>50</sup> Shortly thereafter, U.S. Citizenship and Immigration Services (USCIS) posted a notice encouraging individuals who have symptoms consistent with COVID-19 to seek treatment or preventative services.<sup>51</sup> The notice also states that consideration of medical treatment or preventative services related to COVID-19 will not be included in any public charge determination.

On their own, non-cash benefits relating to healthcare, food and nutrition, and housing make important contributions to public health, but their "combined impact" is even more powerful.<sup>52</sup> What the NILC report illustrates is that, despite the positive impact of non-cash benefits to health and the public good, the Final Rule has nonetheless led to deep anxieties about public benefit use. The NILC report highlights how such anxieties are situated in an environment in which "immigration-related restrictions are multiplying and becoming more unpredictable."<sup>53</sup> Accordingly, addressing the Final Rule's impact on public health requires taking a broad

perspective. This means taking into account how legal changes, like the Final Rule, disproportionately impact different groups—including individuals who are not legally constrained by the Final Rule. Low-income individuals from immigrant families may feel that legally accessible benefits are nevertheless out of their reach, for reasons that do not arise for other low-income groups. Although the Final Rule’s full impact is yet to be seen, even USCIS has already had to address the chilling effect to prevent or mitigate an adverse impact on the public’s health.

## SUPPORTERS



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**This document is current as of March 23, 2020.**

<sup>1</sup> 8 U.S.C. § 1182(a)(4)(A).

<sup>2</sup> The final rule was initially set to go into effect on October 15, 2019, but before it could take effect it was blocked by preliminary injunctions issued by district courts in California, Washington, Maryland, Illinois, and New York. The U.S. Court of Appeals for the Ninth and Fourth Circuits stayed the preliminary injunctions issued in their respective district courts. The U.S. Court of Appeals for the Second Circuit Court declined to lift the nationwide injunction issued by the U.S. District Court for the Southern District of New York, but the U.S. Supreme Court issued an order staying that injunction on January 27, 2020. On February 21, 2020, the Supreme Court stayed the last remaining preliminary injunction when it issued an order staying the statewide injunction in Illinois.

<sup>3</sup> 8 U.S.C. § 1182(a)(4)(A).

<sup>4</sup> DHS’s final rule does not apply to the public charge ground of deportability under 8 U.S.C. § 1227(a)(5). IMMIGRANT LEGAL RESOURCE CENTER, *Public Charge as a Ground of Deportability* (June 2019), [https://www.ilrc.org/sites/default/files/resources/public\\_charge-deportability-june\\_2019.pdf](https://www.ilrc.org/sites/default/files/resources/public_charge-deportability-june_2019.pdf). Nor does it apply to visa applications processed by the Department of State (DOS) through the Bureau of Consular Affairs. The DOS proposed an interim final rule to align with DHS’s final rule, but it has not yet taken effect. U.S. DEPARTMENT OF STATE, *Public Charge Update* (October 24, 2019), <https://travel.state.gov/content/travel/en/News/visas-news/public-charge-update.html>.

<sup>5</sup> Spouses, children, and parents of U.S. citizens are considered “immediate relatives” of U.S. citizens for purposes of family-based immigration. *Family of U.S. Citizens*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Family of U.S. Citizens*, <https://www.uscis.gov/family/family-us-citizens> (last visited February 24, 2020).

- 6 The Final Rule also applies to employment-based green card applicants, those applying for temporary non-immigrant visas, and visa extension or change of status applicants. NEW YORK LEGAL ASSISTANCE GROUP, *Who does the public charge inadmissibility rule apply to?* (August 22, 2019), <https://www.nylag.org/who-does-the-public-charge-inadmissibility-rule-apply-to/>.
- 7 8 U.S.C. § 1182(a)(4)(B).
- 8 U.S. DEPARTMENT OF HOMELAND SECURITY, *Affidavit of Support* (updated September 27, 2019), <https://www.uscis.gov/greencard/affidavit-support>.
- 9 *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689 (May 26, 1999), <https://www.justice.gov/sites/default/files/eoir/legacy/2002/09/09/fr26my99N.pdf>. Although adopted, the Field Guidance definition was never formally finalized as a rule.
- 10 The Field Guidance definition continues to apply to pending applications for admissions or adjustment of status postmarked or submitted electronically before February 24, 2020. U.S. CITIZENSHIP AND IMMIGRATION SERVICES, USCIS Announces Public Charge Rule Implementation Following Supreme Court Stay of Nationwide Injunctions (January 20, 2020), <https://www.uscis.gov/news/news-releases/uscis-announces-public-charge-rule-implementation-following-supreme-court-stay-nationwide-injunctions>.
- 11 *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689 (May 26, 1999), <https://www.justice.gov/sites/default/files/eoir/legacy/2002/09/09/fr26my99N.pdf>.
- 12 8 C.F.R. § 212.22(a).
- 13 8 C.F.R. § 212.22(b).
- 14 *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689 (May 26, 1999), <https://www.justice.gov/sites/default/files/eoir/legacy/2002/09/09/fr26my99N.pdf>.
- 15 *Id.* at 28692.
- 16 *Id.*
- 17 Federal Register, *Inadmissibility on Public Charge Grounds* (August 14, 2019), <https://www.federalregister.gov/d/2019-17142/p-313> (noting the Final Rule better ensures individuals are self-sufficient).
- 18 For the full list of benefits see 8 C.F.R. § 212.21(b).
- 19 Frequently referred to as “general assistance programs.” 8 C.F.R. § 212.21(b)(iii).
- 20 Housing Assistance under the Housing Choice Voucher program and Project-based Rental Assistance under HCV under 42 U.S.C. § 1437f. See 8 C.F.R. § 212.21(b).
- 21 Defined as Medicaid “[s]chool based services or benefits provided to individuals who are at or below the oldest age eligible for secondary education as determined under State or local law.” 8 C.F.R. § 212.21(b)(5)(iii).
- 22 The Individuals with Disabilities Education Act is codified at 20 U.S.C. § 1400 *et seq.*
- 23 8 C.F.R. § 212.22(b)(1)-(5).
- 24 8 C.F.R. § 212.22(c).
- 25 Public benefit use prior to the final rule’s implementation on February 24, 2020, however, will not be considered. USCIS, *Public Charge* (updated March 13, 2020), <https://www.uscis.gov/greencard/public-charge>.
- 26 Randy Capps, Mark Greenberg, Michael Fix, Jie Zong, *Gauging the Impact of DHS’ Proposed Public-Charge Rule on U.S. Immigration*, MIGRATION POLICY INSTITUTE 2 (November 2018), <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.
- 27 *Id.* at 8-9.
- 28 OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, *Summary of Immigrant Eligibility Restrictions under Current Law* (February 25, 2009), <https://aspe.hhs.gov/basic-report/summary-immigrant-eligibility-restrictions-under-current-law>; PEW TRUST, *Mapping Public Benefits for Immigrants in the States* (September 24, 2014), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states>.
- 29 Unlike refugees or asylees, current LPRs may face a five-year waiting period after obtaining LPR status before obtaining eligibility for federal benefits. OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, *Summary of Immigrant Eligibility Restrictions*



under Current Law (February 25, 2009), <https://aspe.hhs.gov/basic-report/summary-immigrant-eligibility-restrictions-under-current-law>.

<sup>30</sup> There are some exceptions, such as assistance for emergency medical conditions. *Id.*

<sup>31</sup> 8 C.F.R. § 212.23(a).

<sup>32</sup> An example would be an LPR who left the U.S. for 180 days or more.

<sup>33</sup> Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, Stephen Zuckerman, *One in Seven Adults in Immigrant Families Reported Avoiding Public Benefits Programs in 2018*, URBAN INSTITUTE (May 22, 2019), <https://www.urban.org/research/publication/one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>.

<sup>34</sup> Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) legal immigrants experience limitations on their ability to use federal public benefits identified in the Final Rule. Only “qualified aliens” qualify for federal public benefits.

<sup>35</sup> Holly Straut-Eppsteiner, *Documenting Through Service Provider Accounts Harms Caused by the Department of Homeland Security’s Public Charge Rule*, NATIONAL IMMIGRATION LAW CENTER 4 (February 2020), <https://www.nilc.org/issues/economic-support/documenting-harm-caused-by-the-department-of-homeland-securitys-public-charge-rule/>.

<sup>36</sup> *Id.*

<sup>37</sup> FAMILIES USA, *Collateral Damage: The Administration’s Public Charge Immigration Restrictions are Endangering Health Coverage for U.S.-Citizen Children 4* (February 2020), <https://www.familiesusa.org/resources/collateral-damage-the-administrations-public-charge-immigration-restrictions-are-endangering-health-coverage-for-u-s-citizen-children/>.

<sup>38</sup> *Id.*

<sup>39</sup> Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, Stephen Zuckerman, *One in Seven Adults in Immigrant Families Reported Avoiding Public Benefits Programs in 2018*, URBAN INSTITUTE (May 22, 2019), <https://www.urban.org/research/publication/one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>.

<sup>40</sup> *Id.*

<sup>41</sup> KAISER FAMILY FOUNDATION, *Changes to “Public Charge” Inadmissibility Rule: Implications for Health and Health Coverage* (August 12, 2019), <https://www.kff.org/disparities-policy/fact-sheet/public-charge-policies-for-immigrants-implications-for-health-coverage/>.

<sup>42</sup> Samantha Artiga, Anthony Damico, Rachel Garfield, *Potential Effects on Public Charge Changes on Health Coverage for Citizen Children*, KAISER FAMILY FOUNDATION (May 18, 2018), <https://www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/>.

<sup>43</sup> *Id.*

<sup>44</sup> Holly Straut-Eppsteiner, *Documenting Through Service Provider Accounts Harms Caused by the Department of Homeland Security’s Public Charge Rule*, NATIONAL IMMIGRATION LAW CENTER 5 (February 2020), <https://www.nilc.org/issues/economic-support/documenting-harm-caused-by-the-department-of-homeland-securitys-public-charge-rule/>.

<sup>45</sup> *Id.* at 10.

<sup>46</sup> Edward R. Berchick, Jessica C. Barnett, Rachel D. Upton, *Health Insurance Coverage in the United States: 2018*, U.S. CENSUS BUREAU (November 8, 2019), <https://www.census.gov/library/publications/2019/demo/p60-267.html>.

<sup>47</sup> Medha D. Makhoul, *The Public Charge Rule as Public Health Policy*, 16 *Ind. Health L. Rev.* 177, 191 (2019).

<sup>48</sup> Dustin Pugel, *SNAP Is Good for Kentuckians’ Health*, KENTUCKY CENTER FOR ECONOMIC POLICY (October 22, 2019), <https://kypolicy.org/snap-is-good-for-kentuckians-health/>.

<sup>49</sup> Medha D. Makhoul, *The Public Charge Rule as Public Health Policy*, 16 *Ind. Health L. Rev.* 177, 192 (2019).

<sup>50</sup> Letter to President Trump, Vice President Pence, and members of the President’s Coronavirus Task Force (March 4, 2020), <https://www.merkley.senate.gov/imo/media/doc/03.04.20%20Letter%20to%20COVID-19%20Task%20Force.pdf> (expressing concern on the Final Rule’s chilling effects and the impact on containment efforts for the COVID-19 outbreak).

<sup>51</sup> U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Public Charge* (updated March 13, 2020) <https://www.uscis.gov/greencard/public-charge>.

<sup>52</sup> Medha D. Makhoul, *The Public Charge Rule as Public Health Policy*, 16 *Ind. Health L. Rev.* 177, 193 (2019).

<sup>53</sup> Holly Straut-Eppsteiner, *Documenting Through Service Provider Accounts Harms Caused by the Department of Homeland Security’s Public Charge Rule*, NATIONAL IMMIGRATION LAW CENTER iv (February 2020), <https://www.nilc.org/issues/economic-support/documenting-harm-caused-by-the-department-of-homeland-securitys-public-charge-rule/>.